

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LOS ANGELES UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2014061034

ORDER DENYING SECOND
REQUEST FOR CONTINUANCE

On October 20, 2014, one day before the scheduled hearing in this matter, the parties requested a continuance on the ground that Student's medical needs had changed since the IEP at issue in the due process hearing request and on the ground that District only recently retained counsel.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Denied. The hearing dates are confirmed and shall proceed as calendared. The due process hearing is limited to issues alleged in the complaint. Here, the due process hearing requests alleged that the May 6, 2014 IEP did not offer a FAPE. Recent changes to Student's condition are not a factor in whether Student was offered a FAPE over 5 months ago, such that this is not good cause to continue the current hearing. Further, District's failure to retain counsel is also not good cause as District has been on notice of this matter for over four months.

IT IS SO ORDERED.

DATE: October 20, 2014

/s/

RICHARD T. BREEN
Presiding Administrative Law Judge
Office of Administrative Hearings